



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Debora Blithe,  
Judiciary, Burlington Vicinage 3

Request for Interim Relief

CSC Docket No. 2021-1953

ISSUED: JULY 26, 2021 (SLK)

Debora Blithe, a Senior Probation Officer with the Judiciary, Burlington Vicinage (Vicinage), represented by Lynsey A. Stehling, Esq., petitions the Civil Service Commission (Commission) for interim relief of her immediate suspension without pay, effective June 2, 2021.

By way of background, in June 2020, the Vicinage discovered that around 19,700 unsecured child support documents were found in Blithe’s cubicle, which violated policies to secure confidential data, including federal tax information. Further, the Vicinage found that Blithe was mismanaging her case load by failing to timely and correctly process work. On June 2, 2021, Blithe received written notification of the Vicinage’s intention to immediately suspend her without pay. On June 3, 2021, Blithe provided a written response objecting to the suspension and on June 7, 2021, the Vicinage responded indicating that she would be immediately suspended, and it simultaneously served her a Preliminary Notice of Disciplinary Action (PNDA) informing her of its intent to remove her. Thereafter, on June 17, 2021, Blithe filed the subject request for interim relief. The Vicinage notes that the departmental hearing is tentatively scheduled for July 21, 2021.

In her request, Blithe indicates that she advised the Vicinage that under Civil Service rules and the collective negotiations agreement<sup>1</sup> (CNA) there was no basis for the immediate suspension without pay pending a hearing and she should be

<sup>1</sup> It is noted that the Commission does not have jurisdiction over any claims under the CNA.

reinstated with pay pending a determination hearing, which would have provided her an opportunity to review discovery and witness statements/testimony to refute the allegations. Blithe noted to the Vicinage that she lacked any formal discipline over a 20-year career and argued that the immediate suspension violated the concept of progressive discipline and the CNA. Further, she asserted that that immediate suspension without pay was inappropriate as the Vicinage allowed Blithe to work almost a year with knowledge of the allegations supporting the charges before the suspension in question, and, therefore, she contends that the standards for an immediate suspension cannot be met. Blithe highlights that she is the primary holder of health benefits and sole financial provider for herself and she indicates that she has medical issues that require frequent doctor's visits and medication and states that the loss of health benefits would be catastrophic. Further, she presents that she has other financial obligations, such as a mortgage.

Blithe argues that the Vicinage does not have a clear likelihood of success as it has not provided any discovery or other documentation that supports its claim that the immediate suspension was appropriate. She reiterates that the loss of health benefits and income will cause her immediate and irreparable harm due to her health and financial needs. Blithe believes, due to the allegations involved, that it will take time for the hearing officer to render a decision. Further, she argues that the imposition of an immediate suspension in this matter will result in irreparable harm by allowing the Vicinage to violate Civil Service rules, including the principles of progressive discipline. Additionally, Blithe contends that the Vicinage will not sustain substantial injury if she continues in her position as she was allowed to work for nearly a year after it learned of most of the alleged incidents. Moreover, she argues that it is in the public's best interest to allow her to continue to work since believes that the Vicinage cannot meet the Civil Service standards for an immediate suspension.

In response, the Vicinage, represented by Thomas Russo, Staff Attorney, argues that Blithe does not have a clear likelihood of success on the merits since it determined that the suspension was necessary to maintain the effective direction of public service. In this matter, it asserts that Blithe falsified the data entered into the NJKiDS system, which was derived from its investigation, including its interviews with her where she made several admissions. Further, it asserts that contrary to Blithe's claim, she has no right to discovery prior to the immediate suspension as there is no Civil Service rule that provides such a right in this context. It notes that even the CNA does not provide such a right. Concerning progressive discipline, the Vicinage states that Blithe was issued a reprimand in 2005 for abuse of sick and leave time. However, it indicates that progressive discipline is irrelevant for an immediate suspension and only is pertinent for determining the appropriateness of a penalty following the substantive adjudication of the charges. Moreover, the Vicinage contends that even if progressive discipline was relevant, the subject misconduct is so egregious that the immediate suspension is warranted. Regarding Blithe's

statement that the Vicinage waited a year to suspended her, it presents that there is no Civil Service law or rule that proscribes any limitations period for imposing an immediate suspension. It asserts that since it did not rush to judgment and thoroughly investigated the matter before it suspended her, such action should be lauded. With respect to Blithe's health benefits and other financial consideration, the Vicinage indicates that it is well settled that economic loss does not constitute irreparable harm for interim relief, as it can be recovered if she ultimately prevails. The Vicinage states that if Blithe is reinstated, at minimum, it will have to allocate more resources to supervise her, which would also reduce the supervision of others or put other supervisor duties on the back burner, which would lower the unit's morale. Moreover, the public's interest is not served by returning her to work as her mismanagement of her case load impacts the daily lives of litigants and families, adversely affected the Judiciary as an organization and has soured the relationship with other jurisdictions whose cooperation is essential for handling interstate child support cases, and jeopardized the Judiciary's receipt of federal funding.

In reply, the appellant presents that throughout her career she had good performance reviews including receiving awards for customer service in 2018 and 2019. She indicates that in October 2018, she was transferred to the Interstate Unit which had a very different caseload than her prior work, yet she was only provided four hours of training. Blithe reiterates her prior statements regarding the background of this matter. She cites cases to support her argument that by the Vicinage allowing her to work for nearly a year, it cannot claim that an immediate suspension is warranted. Blithe presents that the Vicinage became aware of most of the allegations against her between June 10, 2020 and June 13, 2020, yet she was not disciplined or even alerted to the allegations in the PNDA for nearly a year. Instead, from August 10, 2020 through December 16, 2020, she was placed in a Performance Improvement Plan (PIP); however, none of the 42 cases set forth in the PNDA were addressed in her PIP. Blithe claims that the Vicinage attempts to circumvent its failure to impose a timely immediate suspension by referring to six allegations that occurred in December 2020. She states that the Vicinage's actions not only negatively impact her, but all members of the union as well as all employees protected by Civil Service rules. Additionally, Blithe claims that under *N.J.A.C. 4A:2-2.5(b)*, she was not provided the opportunity to respond to the charges since the Vicinage ignored her evidence and immediately suspended her. She emphasizes that the financial impact of her immediate suspension has caused immediate and irreparable harm and notes that she has been unable to collect unemployment benefits due to the difficulties with obtaining benefits due to Covid-19. Blithe believes that her continued employment does not harm the Vicinage since she has worked for more than 20 years without discipline. Further, Blithe reiterates that the Vicinage never sought any corrective action even though she was placed on PIP, which she claims violates progressive discipline and favors the granting of interim relief. Blithe argues that the public interest does not support an appointing authority disciplining a public employee without initiating discipline against employees in good faith in

accordance with progressive discipline and Civil Service rules. Therefore, she requests to be reinstated with back pay and counsel fees

## CONCLUSION

*N.J.A.C.* 4A:2-1.2(a) provides that upon the filing of an appeal, a party to the appeal may petition the Commission for a stay or other relief pending final decision of the matter.

Pursuant to *N.J.A.C.* 4A:2-1.2(c), the standards to be considered regarding a petition for interim relief are:

1. Clear likelihood of success on the merits by the petitioner;
2. Danger of immediate or irreparable harm if the request is not granted;
3. Absence of substantial injury to other parties if the request is granted;
- and
4. The public interest.

*N.J.S.A.* 11A:2-13 and *N.J.A.C.* 4A:2-2.5(a)1 provides that an employee may be suspended immediately and prior to a hearing where it is determined that the employee is unfit for duty or is a hazard to any person if permitted to remain on the job, or that an immediate suspension is necessary to maintain safety, health, order, or effective direction of public services.

*N.J.A.C.* 4A:2-2.5(b) provides, in pertinent part, where suspension is immediate, and is without pay, the employee must be apprised either orally or in writing, of why an immediate suspension is sought, the charges and general evidence in support of the charges and provided with sufficient opportunity to review the charges and the evidence in order to respond to the charges before a representative of the appointing authority. The response may be oral and in writing, at the discretion of the appointing authority.

In this matter, Blithe alleges that the Vicinage has not met the standard for an immediate suspension because she claims that there is no evidence that her actions threatened the safety, health, order or effective direction of public services. Specifically, she questions how the Vicinage can claim that the alleged misconduct meets the standard for an immediate suspension when it knew most of the allegations against her for nearly a year before imposing the immediate suspension and she continued to work during this time without being apprised of the specific allegations, corrective action and/or discipline. Blithe also contends that the immediate suspension violates the principles of progressive discipline. However, the Commission finds that the immediate suspension was warranted. Specifically, the Vicinage alleges Blithe failed to properly secure nearly 20,000 confidential documents, which included federal tax information. Additionally, it alleges that she

failed to timely and correctly manage her child support case load. This mismanagement led to issues for litigants, families, external jurisdictions, and others. As such, these allegations clearly meet the standard under *N.J.S.A.* 11A:2-13 and *N.J.A.C.* 4A:2-2.5(a)1, as her immediate suspension was necessary to maintain effective direction of public services. Further, the information provided in support of the instant petition does not demonstrate a clear likelihood of success on the merits. A critical issue in any disciplinary appeal is whether the petitioner's actions constituted wrongful conduct warranting discipline. The Commission will not attempt to determine such a disciplinary appeal on the written record without a full plenary hearing before an Administrative Law Judge who will hear live testimony, assess the credibility of witnesses, and weigh all the evidence in the record before making an initial decision. Additionally, while the Commission is cognizant of Blithe's financial situation, the harm that she is suffering while awaiting the outcome of the administrative proceedings is financial in nature, and as such, can be remedied by the granting of back pay should she ultimately prevail. Moreover, given the serious nature of the disciplinary charges at issue, the public interest is best served by not having Blithe on the job pending the outcome of any such charges.

Concerning Blithe's claim that because she continued to work nearly a year during the investigation, there is no evidence that her immediate suspension was necessary, it is noted that there is no time prescribed under *N.J.S.A.* 11A:2-13 and *N.J.A.C.* 4A:2-2.5(a)1 that limits when an immediate suspension may be imposed. Further, as the allegations involved thousands of documents and many cases, the fact that Blithe remained on the job for nearly a year during the investigation into her serious misconduct does not establish that the Vicinage lacked basis to ultimately immediately suspend her. *See In the Matter of William Price* (MSB, decided December 20, 2006). Regarding Blithe's claim that her immediate suspension goes against progressive discipline, the principles of progressive discipline have no bearing on the relevancy of an immediate suspension as it only applies to the appropriate penalty once discipline has been substantiated. Referencing Blithe's complaint about the immediate suspension process, the record indicates that on June 2, 2021, the Vicinage provided Blithe written notification of her immediate suspension, the charges and the general evidence for such action. Thereafter, on June 3, 2021, Blithe responded with her opposition in writing. Subsequently, on June 7, 2021<sup>2</sup>, the Vicinage issued its determination that her immediate suspension without pay was appropriate. It also simultaneously issued a PNDA indicating that she was immediately suspended without pay effective June 2, 2021. It is noted that there is no requirement under *N.J.A.C.* 4A:2-2.5(b) that Blithe be provided the opportunity to review discovery and witness statements/testimony to refute allegations prior to the imposition of an immediate suspension. Therefore, the record indicates that the Vicinage's actions complied with *N.J.A.C.* 4A:2-2.5(b).

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<sup>2</sup> The June 7, 2021 determination letter indicates that her immediate suspension without pay is effective June 8, 2021, which contradicts the June 2, 2021 letter and the PNDA, which indicates that the immediate suspension without pay was effective June 2, 2021.

**ORDER**

Therefore, it is ordered that this petition be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 21<sup>ST</sup> DAY OF JULY, 2021

*Deirdre' L. Webster Cobb*

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Deirdré L. Webster Cobb  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Allison Chris Myers  
Director  
Division of Appeals  
and Regulatory Affairs  
Civil Service Commission  
Written Record Appeals Unit  
P.O. Box 312  
Trenton, New Jersey 08625-0312

c:     Debora Blithe  
       Lynsey A. Stehling, Esq.  
       Kathryn Cappeta  
       Thomas Russo, Staff Attorney  
       Records Center